

**DEPARTMENT OF HUMAN SERVICES
HEALTH SERVICES**

Oregon Safe Drinking Water Grant Application

FY 2003

**OREGON SAFE DRINKING WATER GRANT APPLICATION
FY 2003**

TABLE OF CONTENTS

	Page
Grant Application Forms	
State/EPA Agreement Signature Page	1
Preface	2
Terms and Conditions of the Agreement	3
Program Description, Progress Measures, Work Plan	5
Compliance Assurance Agreement	20
Appendices	27
Appendix A - Compliance Strategy/SNC Definition	
Appendix B - Sanitary Survey Inspection Policy	
Appendix C - Reporting	
Appendix D - Unaddressed SNC listing	
Appendix E - Framework for Initiating Enforcement Action	
Attachments	42
1 - ORS 448.273	
2 - Drinking Water Advisory Committee Membership	
3 - Laboratory Interagency Agreement	
4 - List of Certified Laboratories	
5 - Organization Chart	
6 - County Grant Assurances	

FY 2003 Budget Information

Detailed budget documentation is attached. The details are for the amount of the requested PWSS grant that will be expended directly within the Oregon drinking water program plus lab certification and indirect costs.

Personnel: Positions funded by the requested grant are listed below (11.02 FTE). Note: Lab payments fund one additional position at the Public Health Laboratory - Microbiologist, Lab Certification.

Technical Positions (5.82 FTE)	Managerial Positions (2 FTE)	Support Positions (3 FTE)
0.57 Natural Resource Specialist 4 (#046)	Program Manager F (#957)	Office Specialist 2 (#168)
0.5 Env. Health Specialist 3 (#891)	Program Manager D (#958)	Office Specialist 2 (#962)
Information Specialist 6 (#346)		Administrative Specialist 1 (#977)
Env. Health Specialist 3 (#669)		
0.5 Env. Health Specialist 3 (#165)		
Env. Health Specialist 3 (#925)		
0.25 Public Health Engineer 3 (#1142)		
0.2 Information Specialist 6 (#588)		
Information Specialist 3 (#902)		

Personnel: Positions funded by state matching funds (general fund) are listed below (6.68 FTE):

Technical Positions (3.93 FTE)	Managerial Positions (2.5 FTE)	Support Positions (1.95 FTE)
0.43 Natural Resource Specialist 4 (#046)	Program Manager D (#317)	0.87 Office Specialist 2 (#903)
Public Health Engineer 3 (#483)	Supervising Public Health Engineer (#163)	0.88 Administrative Specialist 1 (#717)
0.5 Environmental Health Specialist 3 (#891)		
Public Health Engineer 3 (#926)		

Fringe Benefits: (Other Personnel Costs - OPE): OPE costs are determined for individual components. These are estimated for the purpose of budget documentation as approximately 39.6% of salary during the project period. (Note: OPE is 38.2% for 7/1/02-6/30/03, 44.9% for 7/1/03-9/30/03)

Travel: In-state travel costs are for field inspections and follow-ups to compliance problems, and is estimated based on past history. Out-of-state travel costs are estimated for national and regional meetings and training directly associated with PWSS work.

Services and Supplies: Categorical listings are included in the budget details.

FY 2003
STATE/EPA AGREEMENT
DEPARTMENT OF HUMAN SERVICES-HEALTH SERVICES
AND
U.S. ENVIRONMENTAL PROTECTION AGENCY

The undersigned, for the Oregon Department of Human Services-Health Services (Department), and the U.S. Environmental Protection Agency, Region 10 (EPA), enter into this Agreement to assure safe drinking water to residents and visitors in the state.

The Agreement, known as the Oregon State/EPA Agreement (SEA), describes priorities, tasks, and resources which comprise the cooperative federal and state management of the drinking water program in Oregon during fiscal year 2003. This Agreement includes required work plans and the application for the EPA program grant to Oregon under provisions of the federal Safe Drinking Water Act. Attached to this State/EPA Agreement is a compliance assurance agreement that sets forth the respective compliance and enforcement responsibilities of each agency.

This agreement provides the public and agency program managers with a formal agreement which includes the budget details and the terms and conditions each agency agrees to follow. It also provides a clear overview of the Department's Drinking Water Program.

This agreement covers the period of time between July 1, 2002, through September 30, 2003. The two agencies hereby agree to cooperatively work towards achieving drinking water goals and to comply with the provisions set forth herein.

FOR THE STATE OF OREGON:

Grant K. Higginson MD MPH
Acting Administrator
Office of Public Health Systems
DHS-Health Services

Date:_____

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

John Iani
Regional Administrator
Environmental Protection Agency, Region 10

Date:_____

PREFACE

Agreements, including both "State/EPA Agreements" (SEAs) and "Performance Partnership Agreements (PPAs) , are developed annually between the U.S. Environmental Protection Agency - Region 10 and the State of Oregon Departments of Environmental Quality, Human Services (Health Services), and Agriculture to cooperatively deliver environmental services in Oregon. If you are interested in information about any of the following programs, an excellent reference would be the appropriate SEA or PPA. Further information can be obtained by contacting either the EPA - Oregon Operations Office, 811 SW Sixth Avenue, Portland, Oregon 97204 or the listed state agency:

Department of Human Services
Health Services
800 NE Oregon St.
Portland, Oregon 97232

- Drinking Water

Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

- Air Quality
- Water Quality
- Hazardous Wastes
- Underground Storage
- Environmental Cleanup

Department of Agriculture
Agriculture Building
635 Capitol NE
Salem, Oregon 97310

- Pesticides

TERMS AND CONDITIONS

The Department of Human Services-Health Services (“Department”) is authorized to enter into an agreement with the US Environmental Protection Agency (“EPA”) to administer the Federal Safe Drinking Water Act (“SDWA”). This agreement is subject to Oregon Revised Statute (ORS) 448.273, (Attachment 1).

I. Contact Persons

The State Drinking Water Program Coordinator, Oregon Operations Office, is the primary EPA official in Oregon with the authority to issue, interpret, and coordinate EPA program directives to the Department. He/she will work cooperatively with the Department to resolve problems. The Manager of Oregon's Drinking Water Program is the official contact person for the Department for purposes of this agreement.

II. Performance

Both the Department and EPA will commit their best efforts to assure that the terms, conditions and provisions contained or incorporated in this Agreement are fully complied with. To the extent that the Department does not fulfill provisions of this Agreement as related to the award of the grant being applied for herein, it is understood that EPA will not be precluded from imposing appropriate sanctions under 40 CFR Part 30, including withholding of funds, and termination or annulment of grants.

The tasks and expected results contained in this Agreement reflect information known and objectives identified at the time of its signing. Both agencies recognize that events outside the control of the parties to this Agreement (e.g., changes in authorizing legislation or levels of resources) may affect the ability of either party to fulfill the terms, conditions, and provisions of the Agreement. Therefore, both parties agree that a system for review and negotiated revision of plans is central to the Agreement to assure that priorities, needs and resources provide the basis for both agencies' operations. Both parties are committed to frequent communication regarding the provisions of this Agreement.

III. Reporting

During the term of this Agreement, compliance reports shall be prepared as per Appendix C. An Annual Compliance Report as specified in the SDWA shall be prepared by the Department and submitted to EPA by July 1 of each year.

IV. Evaluation

During the term of this Agreement, EPA will conduct quarterly compliance reviews of Department activities to review progress on enforcement activities contained in this Agreement. The scope of these reviews will include discussions of the current compliance status of public water systems identified as significant noncompliers (SNC's). The definition of significant noncompliers is contained in Appendix A. These reviews will be held near the beginning of each quarter as per Section V of the Compliance Assurance Agreement. The Department will designate significant noncompliers that were not acted on, if any, due to time or budget constraints.

There will be two program reviews during this agreement exclusive of the compliance reviews. The purpose of this review process is to determine if adjustments are needed in the work being done under the agreement and to highlight accomplishments, demonstrated by agreed-upon Progress Measures, consisting of public health outcomes and level of effort indicators. The first review will occur after the first six months of implementation. The second review will occur near the close of the agreement. Based on the completion of this agreement, the Department will then prepare a final report of Progress Measures.

V. Fiscal Reporting

The Department and EPA agree that annual budget and fiscal reports for work planned under the provisions of this Agreement shall be by category (personal services, services and supplies, and capital outlay). The Program Description outlines how these resources will be used to address workload.

VI. Contract Period

To adjust the grant period the federal fiscal year, this Agreement covers the period of time between July 1, 2002, through September 30, 2003.

PROGRAM DESCRIPTION, GOALS AND OBJECTIVES, WORK PLAN
Oregon Drinking Water Program
Fiscal Year 2003

Program Description

The Department's Drinking Water Program is designed to meet the needs of the public water systems in Oregon and to comply with the requirements of the Oregon Drinking Water Quality Act and the Federal Safe Drinking Water Act. As of July 1, 2002, there are 34.07 authorized FTE in the program. Of this total, a level of effort of 11.02 FTE is funded by the primacy grant and the remainder is funded through state funds or revolving loan fund set-asides. Primacy grant funds are also used for an additional laboratory certification position at the Public Health Laboratory, lab certification contracts with the Department of Environmental Quality and Department of Agriculture, and support of county health department contracts.

Public participation is encouraged through the Drinking Water Advisory Committee (DWAC), publications, media contacts, and regular meetings with water industry and interest groups. The DWAC was appointed by the Administrator of the former Health Division in 1981 to provide guidance and input on policy issues from a variety of organizations having an interest in Oregon's drinking water. A list of organizations and current members is in Attachment 2. Public information activities center on media contacts, pamphlets, fact sheets, and a quarterly newsletter. The Department also maintains a web site for drinking water information which includes a web-query site for access to water quality and compliance data on individual public water systems (<http://www.ohd.hr.state.or.us/cehs/dwp>).

The Department contracts with counties to carry out the drinking water program for small community and noncommunity water systems in their area (Attachment # 6). County contracts are funded from the Primacy grant and the Drinking Water State Revolving Loan Fund state program management set-aside. The DWSRF set-aside funding is described in the applicable Oregon Intended Use Plan. The Department also contracts with the Department of Agriculture to implement drinking water standards for facilities it licenses and which qualify as public water systems.

In Oregon, water suppliers contract with private laboratories for analytical work to satisfy monitoring requirements. State laboratory facilities support the Department's disease outbreak investigations, water quality investigations, and special studies. The state laboratory also certifies the drinking water laboratories under the National Environmental Lab Accreditation Program (NELAP). The Oregon Public Health Laboratory (OPHL) leads the certification effort and has the facilities and the capability to perform microbiological analyses. The Department has interagency agreements with the Department of Agriculture for pesticide analyses, and with DEQ for analyses of inorganic chemicals, VOCs and THMs. (Attachment # 3). These interagency agreements describe the working and funding arrangements between the respective agencies to certify commercial laboratories to analyze drinking water compliance samples from public water systems. The program is under the direction of the Department's Public Health Laboratory. A current list of certified commercial drinking water labs is included as Attachment 4.

The Drinking Water Section is organized into four work units, reporting to the Program Manager - The Monitoring and Compliance unit, Technical Services units (East and West Regions), and the Protection and Development unit as shown on the organization chart in Attachment 5. The Monitoring and Compliance Unit is responsible for management of the public water supply database, generation of compliance reports to state and county program staff and to EPA, coordination and tracking of formal enforcement actions, and coordination of interagency contracts, laboratory certification, and the operator certification program.

The Technical Services units carry out individual contacts with water systems designed to improve compliance with drinking water standards. These include: investigation of water quality problems, follow-up on compliance schedules, sanitary surveys, plan review, response to emergencies or disease reports, and training for small system operators at locations around the state.

The Protection and Development unit has two major responsibilities; development and implementation of new safe drinking water requirements, and implementation of the Oregon Safe Drinking Water Revolving Loan Fund and associated programs.

Goals and Objectives

Progress measures track the progress of any program toward achieving objectives and meeting goals. The best primary measures are those that are directly related to the goals of the program, use available data, and can be generated and compared year-to-year to track progress toward the goals. Measures of activities that relate ultimately to outcomes can also be useful as secondary measures.

The purpose of the Oregon Drinking Water Program is to “assure all Oregonians safe drinking water” - ORS 448. The goals of the program follow:

- Contamination of public drinking water systems is prevented or reduced, by protecting drinking water sources and by providing adequate water treatment processes.
- Water system personnel have knowledge, skills, and abilities to produce safe drinking water.
- Public water system facilities are adequate to reliably and continuously produce safe drinking water.
- Water users are knowledgeable about safe drinking water and support their local water system.
- All drinking water regulatory standards are fully implemented and are met by water suppliers statewide.

To track progress toward these goals, primary and secondary progress measures are used. The primary measures are “Public Health Outcomes”. Secondary measures are “Level of Effort Indicators.” Objectives are established for each measure.

Public Health Outcomes

Public health outcomes for the drinking water program are:

- ▶ Drinking Water Benchmark
- ▶ Significant Noncomplier Rates
- ▶ Boil-water notices
- ▶ Waterborne disease outbreaks
- ▶ Violations of drinking water standards (MCLs)
- ▶ Violations of drinking water sampling and reporting requirements (M/R)

These are described in detail below.

Drinking Water Benchmark. The Oregon Benchmarks are measurable indicators that Oregon uses at the statewide level to assess its progress toward broad strategic goals. Oregon's statewide strategic plan is called ***Oregon Shines***, and has three goals - quality jobs for all Oregonians; safe, caring, and engaged communities; and healthy, sustainable communities. There are currently 90 individual measures in the Benchmarks; most have a historical baseline and all have future targets.

Healthy drinking water is crucial to the well-being of the citizens of any community. The best assurance of healthy drinking water is for public water systems to provide water that continually meets established Maximum Contaminant Levels and Treatment Technique requirements. The Drinking Water Benchmark has been in place since 1994 and annually measures the "percentage of Oregonians served by public water systems that meet health-based standards" continually during each year. This benchmark includes community, nontransient noncommunity, and large (serving over 500 people/day) transient noncommunity water systems. Health based standards include *E. Coli* (or fecal coliform), surface water treatment performance levels, nitrate (nitrite) MCLs, chemical/radiological MCLs, lead action level, total coliform MCL, and copper action level. Benchmark results to date are 1994-49%, 1995-50%, 1996-56%, 1997-89%, 1998-90%, 1999-90%, 2000-93%, 2001-93%. The objective is to reach 95% by 2005, and to maintain the 95% level during implementation of additional new and revised drinking water standards during 2005-2010. Annually, the drinking water program calculates and publishes the benchmark for that year in the Oregon Annual Compliance Report, and posts web site lists of those public water systems that met the benchmark, and those that did not.

Significant Noncomplier (SNC) Rates. SNCs are public water systems that repeatedly violate regulatory requirements or violate multiple requirements during any 12-month period. The description of SNC criteria is given in Appendix A. The SNC rate is a calculation of the percentage of public water systems that are SNCs in any year, equal to the number of public systems who are SNCs during the year divided by the total number of public systems in operation during the year (x100). Two rates are calculated, one counting SNCs due to MCL violations or a mix of MCL and M/R violations (called the MCL SNC rate), and another counting SNCs

due to M/R violations only (called the M/R SNC rate). Separate rates are calculated for each classification of public water system, community, nontransient noncommunity, and transient noncommunity. The objective is to reduce these rates.

Boil Water Advisory Occurrence. Water suppliers are directed to issue boil water advisories to users when there is a likelihood of the presence of harmful microorganisms in the water supply. This could occur due to outright contamination of the water supply or because of a breakdown in treatment processes. The number of such occurrences each year provides a measure of the prevalence of severe water problems that regulatory standards are designed to minimize. The objective is to reduce the number of such occurrences.

Waterborne Disease Outbreak Occurrence. Actual outbreaks of illness from contaminated drinking water is the ultimate threat to health that regulatory standards are designed to prevent. Use of outbreak occurrence as a program performance measure is problematic because the number of recognized outbreaks has declined to very sporadic levels in Oregon (the last one in 1997), and because disease surveillance systems have limited capability to recognize outbreaks, especially small outbreaks among subpopulations. The objective is to prevent outbreaks.

Maximum Contaminant Level (MCL) Violation Rates. The objective is to reduce both the number of MCL violations per year that occur, and to reduce the number of water systems that experience MCL violations, year-to-year. These measures are published annually in the Oregon Annual Compliance Report.

Monitoring and Reporting (M/R) Violation Rates. The objective is to reduce both the number of M/R violations per year that occur, and to reduce the number of water systems that experience M/R violations, year-to-year. These measures are published annually in the Oregon Annual Compliance Report.

Level of Effort Indicators

Level of effort indicators measure program activities, rather than outcomes. As such, they do not measure program progress directly, but they do describe the activities that are designed to contribute to the public health outcomes described

above. Based on review of progress toward outcomes, levels of effort can be modified or even redirected as necessary. Level of effort indicators listed below are in two categories. The first category includes those activities under the Primacy program, funded by the Public Water Supply Supervision grant, the State Program Management Setaside from the Drinking Water State Revolving Fund, and the associated required state matches for these two funds. The second category includes all other DWSRF activities, which are described, monitored, and reported through the DWSRF Capitalization Grant process which is outside the scope of this agreement. However, they are listed here for information, recognizing that DWSRF work will also contribute to meeting the public health outcomes described above.

Primacy program level of effort indicators are described below. The indicators marked with an asterisk (*) are those that are eligible for DWSRF State Program Management Setaside funding under the applicable Intended Use Plans.

Emergencies and Disease Reports. Report number of responses per year to water system emergencies and reports of disease case occurrence.

Water Quality Detection Alerts*. Alerts are internal notifications of receipt of water quality tests that indicate detections of contaminants in public water systems. Program staff respond to these to assure that proper follow up sampling is done by the water supplier and that public health is appropriately addressed. Report total alert responses per year.

Investigations of SNCs*. Program staff investigate water systems in Significant Noncompliance with safe drinking water requirements, and attempt to resolve compliance issues informally or through formal enforcement. Report number of SNCs that occur, number investigated, number resolved, and number unaddressed per year.

Sanitary Surveys*. Program staff maintain a minimum schedule of surveys. Report number of sanitary surveys completed per year and the number of water systems with out-of-date surveys.

Enforcement Actions. Report number of actions taken per year.

GWUDI Determinations. Report number of Groundwater Under the Direct Influence of surface water determinations made per year and the number remaining to be made.

Filtration Plant Inspections. Report number of filtration plant inspections made per year to evaluate treatment effectiveness, and number of follow up Comprehensive Performance Evaluations conducted per year in response to identified treatment performance deficiencies.

Corrosion Control Treatment Inspections. Report number of inspections per year of treatment systems for lead and copper control, made in response to corrosion treatment performance deficiencies identified from lead/copper test results and treatment performance reports.

Water Systems with Certified Operators. Report number of water systems with appropriately certified operators per year, and the number of systems without certified operators or with under-certified operators per year.

Consumer Confidence Reports. Report number of community systems that distribute and submit CCRs per year.

Plan Review. Report numbers of water system plans reviewed per year.

Primacy Revision Applications. Report number of Primacy program revision applications per year made to adopt new rules or to otherwise revise the current program to retain Primacy.

Additional activities. These are funded under the Drinking Water State Revolving Fund and also relate to the program goals and public health outcomes. They are described in the appropriate Intended Use Plan and are included here for reference only:

- ▶ Loans made to communities for safe drinking water projects per year
- ▶ Number of Source Water Assessments done per year
- ▶ Number of local Drinking Water Protection Programs in place per year
- ▶ Number of water systems receiving drinking water protection implementation assistance per year

- ▶ Number of water systems receiving “circuit rider” technical assistance per year
- ▶ Number of water systems receiving TFM Capacity Assessments per year
- ▶ Number of water systems receiving TFM capacity development assistance per year

Work Plan

For FY 2003, the state program will conduct the following regulatory program work as available resources allow, including the Primacy grant, the Drinking Water State Revolving Loan Fund state program management set-aside (marked with an *), and the associated state match. The work is arranged in priority order:

- ▶ Respond to drinking water emergencies and reports of waterborne disease,
- ▶ Certify laboratories to perform water quality tests on public water systems,
- ▶ Communicate safe drinking water requirements and information to public water suppliers,
- ▶ Conduct surveillance of public drinking water quality through receiving, processing, and evaluating laboratory test results and public water system operation reports,
- ▶ Investigate water systems whose lab results and/or water system operation reports indicate a potential risk to health (water quality “alerts”)*,
- ▶ Assure accurate identification and reporting of public water system compliance status (Appendix C),
- ▶ Enforce regulatory requirements for all water systems who are “Level 1-Acute” Significant Noncompliers¹ (Appendix E)*,
- ▶ Enforce regulatory requirements for all water systems who are “Level 1-Acute” non-SNC violators (Appendix E),
- ▶ Enforce regulatory requirements for community and nontransient noncommunity water systems who are “Level 1-Chronic” Significant Noncompliers¹ (Appendix E)*,
- ▶ Complete implementation of the SDWIS-State data management system, while participating in development and implementation of upgrades.
- ▶ Certify and train public water system operators,
- ▶ Review plans for public water system modifications and ensure compliance with construction standards,

- ▶ Participate in development of national drinking water regulations, guidelines, and policies,
- ▶ Provide opportunities for constituent participation in state program design, policy development, and regulation adoption,
- ▶ Adopt new regulations required under the Safe Drinking Water Act,
- ▶ Complete Primacy Program Revision processes to maintain Primacy,
- ▶ Apply for rule adoption extension for arsenic rule
- ▶ Enforce regulatory requirements for community and nontransient noncommunity water systems who are “Level 2-Acute” Significant Noncompliers¹ (Appendix E)*,
- ▶ Enforce regulatory requirements for community and nontransient noncommunity water systems who are “Level 1-Chronic” non-SNC violators (Appendix E),
- ▶ Conduct surveillance of public water systems through on-site inspections*,
- ▶ Conduct oversight of local cross connection control programs,
- ▶ Complete identification and resolution of irrigation water suppliers supplying domestic water
- ▶ Develop FY 2004 State/EPA Agreement,
- ▶ Increase public awareness of safe drinking water issues,
- ▶ Maintain and improve the knowledge, skills, and abilities of drinking water program staff,
- ▶ Enforce regulatory requirements for community and nontransient noncommunity water systems who are “Level 2-Chronic” Significant Noncompliers¹ (Appendix E)*,
- ▶ Enforce regulatory requirements for transient noncommunity water systems who are “Level 2-Acute” Significant Noncompliers¹ (Appendix E)*,
- ▶ Enforce regulatory requirements for all water systems who are “Level 2-Acute and Chronic” non-SNC violators (Appendix E),
- ▶ Identify potential groundwater quality management areas.

¹ These include Significant Noncompliers identified during the grant period and those identified as “Unaddressed” at the beginning of the grant period. The listing of “Unaddressed SNCs” is attached as Appendix D.

The following matrix describes the specific activities to be accomplished under the Primacy Grant taking into account program priorities and the required minimum program elements to maintain Primacy.

Commitment	Target FY 2003	Year to Date
Program Activities:		
1. Respond to drinking water emergencies and reports of waterborne disease	FY 2003	
2. Certify laboratories to perform water quality tests on public water systems	48 Comm- ercial Labs (and in-house labs)	
3. Communicate safe drinking water requirements and information to public water suppliers <ul style="list-style-type: none"> -PIPELINE newsletter -Special edition PIPELINEs (Drinking Water Standards, 2001 Annual Compliance Report) -Targeted mailings on specific requirements -Presentations at training sessions and organizational meetings -Maintain Internet Webpage and database access 	Qtrly FY 2003 FY 2003 FY 2003 FY 2003	
4. Conduct surveillance of public drinking water quality through receiving, processing, and evaluating laboratory test results and public water system operation reports: <ul style="list-style-type: none"> -Coliform tests -Surface water treatment reports (monthly) -Nitrate test results -Lead and copper test reports -Corrosion control parameter reports (monthly) -Chemical/radiological reports 	80,000 3,300 4,250 600 2,625 5,000	
5. Investigate water systems whose test results and/or operation reports indicate a potential risk to health (“alerts”): <ul style="list-style-type: none"> -Coliform detections -Surface water treatment requirement failures -Chemical detection alerts 	1,750 190 500	

Commitment	Target FY 2003	Year to Date
Program Activities:		
6. Assure accurate identification and reporting of public water system compliance status as per Appendix C: -Identify MCL, treatment technique, and monitoring violations and report to SDWIS-FED quarterly -Prepare and distribute 2001 Oregon Annual Compliance Report (including "Benchmarks")	FY 2003 7/1/03	
7.-Enforce regulatory requirements for all water systems who are "Level 1-Acute" Significant Noncompliers ¹ (see Appendix E): -Coliform -Surface water treatment -Nitrite/Nitrate ¹ Includes "Unaddressed SNCs" - Appendix D	FY 2003	
8. Enforce regulatory requirements for all water systems who are "Level 1-Acute" non-SNC violators (see Appendix E): -Coliform -Surface water treatment -Nitrite/Nitrate	FY 2003	
9. Enforce regulatory requirements for community and nontransient noncommunity water systems who are "Level 1-Chronic" Significant Noncompliers ¹ (see Appendix E): -Lead and copper -Chemicals -Radionuclides ¹ Includes "Unaddressed SNCs" - Appendix D	FY 2003	
10. Complete implementation of the SDWIS-State data management system (V.8), while participating in development and implementation of upgrades	5/03	
11. Certify and train public water system operators -Certify operators (initial certification and renewal) -Apply for EPA Operator Certification training funds -Award contract for training materials synthesis for operators of small systems	1550 12/02 6/02	

Commitment	Target FY 2003	Year to Date
Program Activities:		
12. Review plans for public water system modifications and ensure compliance with construction standards	350	
13. Participate in development of national drinking water regulations, guidelines, and policies: <ul style="list-style-type: none"> - Workgroups (EPA, ASDWA, AWWA) - Review and comment on proposed EPA rules (Stage 2 Microbials/Disinfection By-products, Radon, Groundwater, Coliform, Contaminant Candidate List) 	FY 2003	
14. Provide opportunities for constituent participation in state program design and policy development through the Drinking Water Advisory Committee (meetings every two months).	FY 2003	
15. Adopt new regulations required under the Safe Drinking Water Act: <ul style="list-style-type: none"> -Variances and Exemptions -Radionuclides -Filter Backwash 	11/02	
16. Submit Primacy revision package for new regulations under the Safe Drinking Water Act: <ul style="list-style-type: none"> -Variances and Exemptions -Radionuclides -Filter Backwash 	12/02	
17. Apply for rule adoption extension for arsenic rule	1/03	
18. Enforce regulatory requirements for community and nontransient noncommunity water systems who are "Level 2-Acute" Significant Noncompliers ¹ (see Appendix E): <ul style="list-style-type: none"> -Coliform -Surface water treatment -Nitrite/Nitrate 	FY 2003	
¹ Includes "Unaddressed SNCs" - Appendix D		

Commitment	Target FY 2003	Year to Date
Program Activities:		
19. Enforce regulatory requirements for community and nontransient noncommunity water systems who are "Level 1-Chronic" non-SNC violators (see Appendix E): -Lead and copper -Chemicals -Radionuclides	FY 2003	
20. Conduct surveillance of public water systems through on-site inspections, and corrections to eliminate deficiencies -Sanitary survey inspections of systems with groundwater sources, 5-year schedule -Sanitary survey inspections of systems with surface water sources, 3-year schedule -Filtration plant surveillance inspections (quarterly, 185 plants) -Comprehensive performance evaluations of 185 filtration plants), 5-year schedule -Annual review of water systems with filtration exception	800 160 925 44 4	
21. Conduct cross connection program -Certify testers -Certify inspectors -Evaluate community cross connection programs	1300 450 885	
22. Complete identification and resolution of irrigation water suppliers supplying domestic water	FY 2003	
23. Develop FY 2004 SEA and workplan	8/03	
24. Increase public awareness of safe drinking water issues through: - Internet web page - Drinking water database access via Internet - Data sharing with environmental agencies	FY 2003	

Commitment	Target FY 2003	Year to Date
Program Activities:		
25. Maintain and improve the knowledge, skills, and abilities of drinking water program staff - EPA trainings - AWWA training - ASDWA training - Other training as available	FY 2003	
26. Enforce regulatory requirements for community and nontransient noncommunity water systems who are "Level 2-Chronic" Significant Noncompliers ¹ (see Appendix E): - Lead and copper - Chemicals - Radionuclides ¹ Includes "Unaddressed SNCs" - Appendix D	FY 2003	
27. Enforce regulatory requirements for transient noncommunity water systems who are "Level 2-Acute" Significant Noncompliers ¹ (see Appendix E): - Coliform - Surface water treatment - Nitrite/Nitrate ¹ Includes "Unaddressed SNCs" - Appendix D	FY 2003	
28. Enforce regulatory requirements for all water systems who are "Level 2-Acute and Chronic" non-SNC violators (see Appendix E)	FY 2003	
29. Identify potential groundwater quality management areas - Receive and process on-site individual well water quality test results from real estate transactions - Advise owners of wells with coliform or nitrate contamination of recommended health protection actions - Report public water system and individual well water quality data to the DEQ groundwater program - Support DEQ efforts in designated groundwater management areas	FY 2003	

*** Significant Noncomplying System (SNC)** - defined in Appendix A of the Compliance Assurance Agreement.

**Compliance Assurance Agreement
between the
U.S. Environmental Protection Agency
and the
Department of Human Services-Health Services**

I. Purpose of Agreement

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of federal and state environmental agencies, and is an essential prerequisite to realizing the benefits of regulatory programs. While the Oregon Department of Human Services-Health Services (Department) has primary responsibility for assuring water system compliance and initiating enforcement actions in the State of Oregon, as authorized by ORS Chapter 448 and by the Environmental Protection Agency (EPA) under the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), EPA retains responsibility for ensuring fair and effective enforcement of federal requirements.

The purpose of this Compliance Assurance Agreement (CAA) between EPA and the Department is to clearly establish respective agency roles in maintaining an effective compliance and enforcement program. This document includes a description of the way the Department conducts enforcement efforts (i.e. the state compliance strategy), a copy of the sanitary inspection policy, reporting requirements, clear oversight criteria for EPA to assess the Department's compliance and enforcement program, and clear criteria for direct EPA enforcement.

II. State Compliance Strategy

The state compliance strategy (see Appendix A) describes the procedures and time-frames that the Department follows to bring water systems with violations into compliance. This strategy is hereafter considered part of the Compliance Assurance Agreement.

III. Sanitary Surveys

An effective field presence is a vital component of a comprehensive state drinking water program. Sanitary surveys are conducted to identify and promote correction of facility deficiencies and potential health hazards related to drinking water contaminants. The attached policy (see Appendix B) describes the sanitary survey program as it is conducted by the Department. The goal is to conduct a sanitary survey inspection every 5 years for each water system using groundwater, and every 3 years for surface water systems.

IV. Parameters of Agreement/Oversight

1. This agreement is entered into by the Administrator of the Oregon Department of Human Services-Health Services (hereafter "Department"), which is the lead agency for the state program and the Regional Administrator, EPA, Region 10 (hereafter "EPA").
2. Each of the parties to this agreement is responsible for ensuring that its obligations under the SDWA are met. The Department and the EPA agree to maintain a high level of cooperation and coordination between program staffs to assure successful and effective administration of the authorized program within Oregon.
3. The EPA will assess the Department's administration and enforcement of the state program on a continuing basis for consistency with the SDWA, with this agreement, and with all applicable federal requirements and policies. This program evaluation will generally be accomplished by an EPA review of the information submitted by the Department in accordance with the agreement and will be discussed at the quarterly meeting.
4. Quarterly compliance meetings between the Department and EPA staffs will be the primary and predominant medium for discussion of (1) program progress, (2) state conformance with the compliance strategy (including timeliness of enforcement activities), and (3) current enforcement actions, and identification of those instances where enforcement action may be appropriate. The quarterly evaluation meetings will take place near the beginning of each quarter in paragraph V below, and be arranged by EPA .

5. Prior to each of the quarterly meetings, EPA will forward a proposed agenda together with a list of those specific instances of noncompliance which EPA staff considers most significant and wishes to discuss at the meeting.
6. The state will advise EPA of all appropriate enforcement actions by sending copies of these actions to EPA when issued.
7. EPA's primary role in enforcement and compliance monitoring shall be that of oversight as described above. However, this document does not affect or inhibit EPA's independent authority to bring a civil action or issue an administrative order pursuant to Section 1414 of the SDWA.
8. To ensure the productive use of limited state and federal resources and an effective partnership in achieving compliance, EPA shall maintain a policy of taking enforcement action within resource availability against violators upon Department's request and of providing copies of press and/or public information releases, and advance notice of any EPA enforcement activities. Significant noncompliers (SNC) for which timely and appropriate state actions are not taken (as described later in this document) become federal enforcement candidates and are subject to notification under Section 1414 of the SDWA.
9. EPA and Department files are mutually available to both parties for inspection and copying.

V. State Reporting

A strong and well managed compliance and enforcement program needs reliable performance information on which to judge success and identify water systems that require attention.

State quarterly reporting requirements are shown in Appendix C. The Department will report accurate PWS inventory, violation and enforcement data (via SDWIS-FED) to the Region within six weeks after the end of each quarter.

EPA and the Department shall identify SNC's (see definition in Section VI below) within 6 weeks after SDWIS-FED data is submitted by the Department. The Department shall provide to the Region quarterly follow-up summary and exceptions reports for those SNC's as follows:

<u>Compliance Period</u>	<u>Due Date</u>
01 (July - Sept.)	December 1, 2002
02 (Oct. - Dec.)	March 1, 2003
03 (Jan. - March)	June 1, 2003
04 (April - June)	September 1, 2003
05 (July - Sept.)	December 1, 2003

VI. Significant Noncompliers

A significant noncomplier (SNC) is a public water system which meets the definitions in Appendix A.

VII. Timely and Appropriate State Enforcement Actions

All public water systems in violation may be subject to enforcement action. Within 8 months after the end of the compliance period, the Department must assure that every SNC as defined in VI herein, will either: (1) be returned to compliance, (2) be operating under and adhering to an enforceable compliance schedule, or a bilateral compliance agreement, OR (3) have a formal enforcement action taken against it to elicit compliance. Any SNCs which the Department can not address due to budget limitations or legal authority should be referred to EPA as early as possible after identification.

Specific formal actions that are considered appropriate are: (1) The issuance of a formal administrative order or compliance order, (2) the referral of a civil judicial case to the Oregon Attorney General, (3) the filing of a criminal judicial case in an appropriate State court, and (4) the finalization of a bilateral, written, compliance agreement signed by both parties which includes a compliance schedule. Actions against other violations will be conducted in accordance with the state's compliance strategy in Appendix A as resources allow.

Significant noncompliers for which timely and appropriate action have not been taken become federal enforcement candidates and EPA may take enforcement action according to Section IX below.

VIII. Civil Penalties

Civil penalties and other sanctions play an important role in an effective enforcement program. Civil penalties may be used, for example, when a

system owner refuses to make necessary water system improvements or when the water system owner gains financially through noncompliance.

IX. Criteria for Direct Federal Enforcement

Because the Department has primary enforcement responsibility, EPA will prioritize its enforcement actions as follows:

1. Department requests EPA action;
2. Department enforcement not initiated within 30 days following the issuance of an EPA Notice of Violation (NOV);
3. Department enforcement response is not timely or appropriate;
4. Department enforcement response is not consistent with the Compliance Strategy;
5. Violation of Department or EPA order or consent decree by the water system;
6. Emergency situation pursuant to section 1431 of the SDWA;
7. By prior agreement between the Department and EPA. (See Appendix E - Framework for Initiating Enforcement Action)

In deciding whether to take direct enforcement in the above types of cases, EPA will consider the following factors:

1. Cases specifically designated as nationally significant;
2. Significant public health damage or risk involved;
3. Significant economic benefit gained by violator;
4. Repeat patterns of violations.
5. EPA resources available.

The Department may request EPA to take enforcement action, e.g., where state resources are inadequate to address the SNC in a timely and appropriate

manner. EPA will follow its priorities in meeting any such requests for assistance considering the factors identified above.

If the Department's enforcement response to a SNC attention is not timely or appropriate, EPA will discuss with the Department the status of its actions. If discussions suggest that the Department is close to resolving the violation or that further deferral is otherwise appropriate, EPA will continue to defer to enable the Department to complete its action. If EPA determines that further deferral is not justified, it will proceed with its own actions at this point. EPA will encourage continued Department participation even where EPA takes the lead.

EPA will take unilateral enforcement action against a water system only after first conferring with the appropriate Department staff and providing the Department with written (except in emergencies) notification. In the case of an emergency, oral notice will be given and action may be taken pursuant to section 1431 of the SDWA.

X. Federal Facilities

The Department has primary responsibility for ensuring federal facility compliance. However, EPA will separately review federal facility compliance data provided by the Department and will initiate appropriate enforcement response as needed. EPA, through the federal A-106 planning process, is provided with the opportunity to review the list of proposed federal projects and recommend funding and/or schedule changes on an annual basis.

XI. Disclaimer Statement

Nothing in this agreement shall be construed to limit or modify the authorities granted to either EPA or the Department by law, or shall be construed to constitute a valid defense by regulated parties in violation of any state or federal environmental statute, regulation, or permit.

XII. Dispute Resolution

Where any conflict or disagreement occurs, such issues shall be resolved by negotiation between EPA and Department staff. If the issue cannot be resolved, the issue shall be raised to appropriate levels of the Department and EPA management.

XIII. Public Information

Both EPA and the Department are committed to publicly account for their compliance and enforcement programs through a variety of methods. Public information releases are one of the basic methods of conveying reports concerning enforcement activity for all media, and may enhance the deterrent potential of enforcement actions.

EPA and the Department agree to review opportunities for joint releases on enforcement actions and public accounting of both state and federal accomplishments in compliance and enforcement. To the extent possible, public information reports generated by one agency will acknowledge and give appropriate credit to relevant actions and accomplishments in enforcement/compliance by the other agency.

XIV. Term of Agreement

This compliance assurance agreement will remain in effect until terminated or amended upon agreement by all parties.

FOR THE STATE OF OREGON

Grant K. Higginson MD MPH
Acting Administrator
Office of Public Health Systems
Department of Human Services-Health Services

Date:_____

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

John Iani
Regional Administrator
Environmental Protection Agency, Region 10

Date:_____

APPENDICES

APPENDIX A COMPLIANCE STRATEGY

Introduction

The Oregon Department of Human Services-Health Services shall take timely and appropriate action (as discussed below) to respond to violations of state drinking water regulations in accordance with the state's primacy responsibility. Described here are the legal tools available to the Department for enforcement of drinking water regulations, the system by which violations of regulations will be prioritized for action, and the action procedures for responding to violations.

The Department initiates enforcement action when 1) there is an immediate and/or urgent hazard to the public's health and safety; or 2) after regulatory assistance has failed to achieve the necessary compliance within a reasonable period of time. The Department recognizes that there are water systems for which legal action will be required to achieve compliance. Although the Department will make substantial efforts to achieve compliance informally in each case, legal action will be pursued where necessary, within available budget resources.

A. Enforcement Mechanisms

The Department has several formal remedies available for enforcement of drinking water regulations: administrative orders, civil penalties, and other legal action when the water system is a health hazard. The Department may prescribe immediate compliance by Civil Penalty or Direct Court Action or may establish compliance schedules by Administrative Order or Permits.

1. Administrative Orders will be used in most cases when a water system is unable to comply with Maximum Contaminant Levels, and construction of facilities is needed to comply. This process is begun by issuing a Notice of Violation (NOV) from the Department administrator to the water supplier when the water system is being operated in violation of the rules. The NOV contains a citation of the rule allegedly violated, the manner and extent of the violation, and a statement of the party's right to hearing. The NOV is delivered in person or by registered or certified mail.

The NOV is accompanied by an Order, requiring remedial action which will achieve compliance with the rule if taken within a specified time limit. The request for hearing must be made within 10

days or the Order becomes final. The procedures for the hearing are controlled by the Oregon Administrative Procedures Act. The Order is either affirmed or reversed based on the hearing. If affirmed, the Order stands and compliance must be achieved within the specified time limit. The decision may be appealed directly to the Court of Appeals. Violation of the order is punishable as a Class A misdemeanor which can carry a fine of \$25 - \$500 or imprisonment for up to 6 months.

2. The Department is also authorized to assess civil penalties against water suppliers for violation of the Act or rules. These penalties can be up to \$500 for each day of violation, or up to \$1,000 per day for water systems serving more than 10,000 people. The Department must provide five days advance notice of proposed penalty in writing to the violator. The violator then has 20 days to request a hearing before the Department. If a hearing is requested, the form and procedure is governed by the Administrative Procedures Act. If this Order becomes final, payment of the penalty must be made within 10 days, or the Order becomes a Judgement which can be filed in court. All monies collected under this procedure are paid into the state general fund. This procedure is most applicable to cases of persistent non-reporting, failure to submit construction plans, failure to properly operate or maintain a water system, or failure to provide public notification.
3. When a water system presents a public health hazard requiring immediate action to protect the public health or welfare, the Department may request the county district attorney to institute an action. This action may be started without any prior hearing, Order, or other administrative procedure. The action may request a mandatory injunction for the water supplier to stop operation or make improvements or correction to remove the health hazard. If the water supplier does not comply with this order of the court, the court may appoint a special master to operate the system, who can collect revenue from customers or directly from the supplier, and make necessary improvements. The court may also require sale of the water system to a responsible party. This is the most severe type of legal action available to the Department. It is likely to be used only in the most extreme situations where a water system presents a very high probability of transmitting disease.

4. Where appropriate, bilateral compliance agreements may be negotiated between the Department and a noncompliant water supplier. Such agreements contain detailed commitments by the water supplier and interim milestones which the system is expected accomplish by specified dates. These agreements may be used where the violator has shown good faith in negotiations and efforts to comply, and are signed by both the Department and the water supplier.

B. Violation Response Strategy

Procedures for responding to drinking water regulation violations are described here. Procedures are outlined with escalating involvement and action by Department staff for various violations.

Appropriate documentation of compliance activities will be carried out by Department, Department of Agriculture and County staff. This documentation may be in the form of letters, memos to the file, or sanitary hazard inspection reports as deemed appropriate should formal enforcement become necessary. When compliance is achieved, documentation will be provided in Department files outlining actions taken by the supplier and reasoning used by the Department to conclude that additional action is not necessary.

Enforcement actions are carried out primarily by Department staff. County health departments participating in the water program conduct enforcement actions for those noncommunity water systems serving licensed facilities such as restaurants, motels, RV parks, and organizational camps. The enforcement procedure for these facilities involves operating license revocation. The Department of Agriculture takes similar actions against its licensed facilities. All other enforcement is initiated by the Department, and supported by the respective county health department as appropriate.

The following summaries will serve as a model for preparing escalating responses to violations of State and Federal monitoring/reporting and maximum contaminant level regulations.

If a situation occurs such that there is an imminent and substantial endangerment to human health, informal responses may be skipped or greatly accelerated.

Monitoring Violations

Each monitoring violation will be individually recognized and responded to after the appropriate monitoring period is over. Single instances of failure to report laboratory analyses of water samples of treatment performance reports shall be responded to in writing with a form letter or postcard directing the water suppliers to either (1) submit the report, or (2) if no report is available, conduct public notification as appropriate.

Maximum Contaminant Level or Treatment Technique Violations

Violations of MCLs or treatment techniques will be individually recognized and responded to. Single laboratory analysis received which suggest potential MCL violations are "flagged" automatically by the data management system. Daily alert reports of chemical data exceeding MCL levels or positive coliform detections are generated and routed to state or county field staff as appropriate. Field staff are responsible for contacting the water supplier to assure that resampling is undertaken and any immediate corrective action needed is taken as appropriate. After confirmation of original test results, written notice is sent to the water supplier to assure that the contamination is corrected and the public is notified. Violations of treatment techniques are recognized from monthly reports submitted by water systems and these are "flagged" by the data management system. These flags generate alert reports that are reviewed and responded to by state or county field staff as appropriate to assure that corrective action is taken and the public is notified.

Significant Noncompliers (SNC)

A SNC is a community, nontransient noncommunity, or noncommunity water system which meets any of the criteria in the attached table. All SNC's not achieving compliance within 8 months of the end of the compliance period will be subject to one of the following actions:

- ◆ Bilateral compliance agreement (signed by both parties; containing interim milestones)
- ◆ Administrative Order
- ◆ Civil Penalty
- ◆ Direct Court Action

Once an action has been taken and a system is on a schedule to come into compliance, the Department will monitor the system's progress. Violations of schedules will be documented as well as the response to the violations. If a milestone or a requirement of a schedule, contained in a Bilateral Compliance Agreement or Order is missed, the Department will investigate the situation to determine why the requirement was missed. The results of this investigation will be documented in the file and used as a basis for determining the response to the violation and further administrative action. Such a determination, and the response, will be documented in the case file.

SIGNIFICANT NONCOMPLIER (SNC) DEFINITION: A SNC is any community, nontransient noncommunity or transient noncommunity water system which meets the criteria listed below:

1. Microbiological:

(A) Systems on monthly monitoring:

- ◆ Four or more violations of the Maximum Contaminant Level (MCL) or water treatment performance standards during any 12 consecutive months.
- ◆ Six or more combined major* violations of the monitoring/reporting requirements and/or violations of the MCL or water treatment performance standards during any 12 consecutive months.
- ◆ Ten or more combined major* monitoring/reporting and/or MCL violations or water treatment performance violations during any 12 consecutive months.

(B) Systems on quarterly monitoring:

- ◆ Three or more combined major* violations of microbiological monitoring/ reporting requirements, MCLs, or water treatment performance standards during any four consecutive quarters.

© Systems that must install treatment for surface water sources or groundwater sources under the direct influence of surface water.

2. Chemical/Radiological:

- (A) Exceeds the MCL identified for any contaminant.
- (B) Fails to monitor for or report the results of nitrate or THMs within six months after the date due.

- © Fails to meet the lead and/or copper action level.
- (D) Fails to monitor or report chemical/radiological data (other than nitrate and THMs) within one year after the date due.

4. Public Notification:

- (A) Fails to provide notice as required to the consumers of the violations which result in the system becoming a SNC.

Definition of Major Monitoring/Reporting Violations

**** Major Monitoring or Reporting (M&R) Violation***

Monitoring or reporting violations where a system fails to take any routine samples for a particular contaminant or report any treatment performance data during a compliance period, or fails to take any repeat samples following a coliform positive routine or where the system has failed to report the results of analyses to the Department for a compliance period. (If the Department or its agent receives no monitoring report or receives a report indicating that no monitoring was conducted, the M & R violation shall be classified as major.)

Appendix B

Sanitary Survey Inspection Procedures Documentation of Sanitary Surveys and Water System Contacts

A sanitary survey is a comprehensive on-site evaluation of a public water system carried out to identify actual and potential sanitary hazards and correct them before they adversely affect the quality of drinking water provided to the public. The scope of the sanitary survey includes the source of water supply, the water intake, treatment system, storage and distribution facilities, operation and maintenance, water system records, and drinking water regulation compliance status related to coliform bacteria. Sanitary surveys should be conducted no less than every five years for each groundwater system and every three years for surface water systems. Sanitary survey procedures are summarized below:

- Contact owner/operator to set up appointment and explain information needed to complete the sanitary survey.
- Review water system file information, water quality history, and data base inventory information
- Conduct on-site review:
 - Complete sanitary survey and inventory information forms
 - Collect coliform sample(s)
 - Verbally inform the owner and/or operator of deficiencies and recommendations
- Complete office work:
 - Verify and complete sanitary survey report and inventory report
 - Develop cover letter with requirements and recommendations to correct deficiencies
 - Mail cover letter, sanitary survey report, inventory information form, and coliform sample result to water system, copy to the Department files

Documentation of Sanitary Surveys and Water System Contacts

Adequate documentation of sanitary surveys and other water system contacts is needed to maintain accurate and current public water system inventory information, to support formal enforcement actions, to describe current regulatory status of water systems, to evaluate the performance and effectiveness of the drinking water program, and to guide and plan program activities.

Sanitary survey inspections shall be documented using forms supplied by the Department and a cover letter to the water system owner/operator. Special purpose inspections, such as to follow

up on corrections to previously identified deficiencies, shall be documented by activity report form, letter, or memorandum. Field and office contacts shall be documented by contact report form, memorandum, or by copy of letters to the water system owner/operator. Emergency response activities shall be documented using the activity report or emergency response form.

Attachments:

Contact Report Form

Emergency Response Form

Sanitary Survey Inspection Forms

APPENDIX C

State Reporting and Record Keeping

Critical Reporting Elements

Level 1 Acute: Microbiological MCL, Surface Water Treatment Performance Standard Violations, Nitrate MCL Violations / Quarterly

List water system identification number and period of non-compliance (month or quarter depending on time period used to determine non-compliance) and analytical value for confirmed MCL violations for community and for transient and nontransient noncommunity water systems.

Level 1 Chronic: Inorganic and Organic (including DBPs, SOCs and VOCs), and Radiological MCL Violations and Lead and Copper-Corrosion Control Treatment Failure / Quarterly

List water system identification number and analytical value for confirmed MCL violations.

Annual Compliance Report/Annually, by July 1

Copies of all appropriate enforcement actions shall be sent to EPA when issued.

Less Critical, Important Reporting Elements

Level 2 Acute: Microbiological, Surface Water Treatment and Nitrate Major Monitoring Violations / Quarterly

List water system identification number and period of non-compliance (month, quarter, year) for both community and for transient and nontransient noncommunity systems.

Level 2 Chronic: Inorganic and Organic (including DBPs, SOCs and VOCs), and Radiological Major Monitoring Violations / Quarterly

List water system identification number and period of non-compliance (quarter, annual) for community and nontransient noncommunity systems

Other Reporting Elements - Time permitting

Records of water systems that have been deemed to have complied with corrosion control for lead/copper and dates of determinations / Quarterly

Records of water systems required to install source water treatment for lead and/or copper and dates of compliance/ Quarterly

Record Keeping

The Department shall maintain records of tests, measurements, analyses, decisions, and determinations for each public water system for the time period required to maintain State primary enforcement responsibility.

The Department shall maintain current inventory information and retain records of public water systems for the time period required to maintain State primary enforcement responsibility.

The Department shall retain a file for each public water system for the time period required to maintain State primary enforcement responsibility. Each file shall include sanitary surveys, State approvals, enforcement actions, current monitoring requirements and frequency decisions, records of annual certifications demonstrating compliance with the treatment techniques for acrylamide and epichlorohydrin, and the State determination for the control of lead and copper. All of this information shall be accompanied by supporting data, monitoring results, and explanations in the file.

In addition, records of statewide or regional determinations regarding chemical monitoring shall be maintained (asbestos, dioxin, radiological contaminants - beta/photon)

REV 5/00

Appendix D

Unaddressed SNCs

Appendix E

Framework for Initiating Enforcement Actions

This framework is referenced in Section IX.7 of the Compliance Assurance Agreement after “By prior agreement between the Department and EPA”:

Appendix A of the Compliance Assurance Agreement (CAA) contains the “Compliance Strategy” that outlines the potential actions the Department could take to bring water systems into compliance with the Safe Drinking Water Act (SDWA). The CAA includes a section entitled “Criteria for Direct Federal Enforcement” - Section IX. This section provides the general outline of how the Environmental Protection Agency (EPA) will prioritize its enforcement actions. The framework discussed below establishes the agreement referred to in Section IX.7 of the CAA and does nothing to alter this section.

The purpose of this framework is to provide guidance to the Department and EPA on the priorities for taking enforcement actions for bringing water systems into compliance with the SDWA. This framework is a general guide and does not preclude either the Department or EPA from taking enforcement actions that are not consistent with the framework. The framework includes community water systems (CWS), nontransient noncommunity water systems (NTNCWS), and transient noncommunity water systems (TNC). It includes SDWA violations under the total coliform rule (TCR), surface water treatment rule (SWTR), nitrate-including nitrite, lead and copper rule (LCR), other chemical standards (Chems), and radiologic standards (Rads). The framework addresses levels of noncompliance for water systems; Significant Noncompliers (SNCs), and non-SNC violators.

General Framework

Because of limited resources of both the Department and EPA, it is not possible to take formal enforcement actions against all systems that violate the SDWA. In recognition of this, the following framework attempts to prioritize those violations that pose the greatest public health risk to the public, and therefore require more immediate and direct action. Prioritizing of water systems for enforcement actions is consistent with the State/EPA Agreement (SEA), and priorities are divided into two levels:

Level 1: Water systems that require immediate attention because of potential acute public health risks or exceedances of chronic MCLs or treatment techniques. The Department will generally take the lead on these systems, and formal enforcement would be considered an appropriate tool to bring these systems into compliance.

Level 2: Water systems that require attention because of monitoring or reporting violations. The Department would initiate the first contact, and if the system is not responsive then the system would be a candidate for EPA actions.

Each level includes consideration of three areas:

- Compliance status (i.e., is the system a SNC, or simply in violation of the SDWA)
- Type of system (i.e., CWS, NTNCWS, or TNC)
- Drinking Water Rule involved (i.e., TCR, SWTR, LCR, Nitrate, Chems, and Rads)

Systems that have MCL or treatment technique violations of the TCR, SWTR, or nitrate standards are the highest priority to address, because these contaminants can present acute risks to health. In general, the first priority should be to address the new and unaddressed SNCs and finally individual violations. Unaddressed SNCs are those systems that have been a SNC for greater than 8 months. In other words, the Department and EPA would first attempt to take action against any unaddressed SNCs prior to resolving new SNCs. This is obviously a general rule and there needs to be flexibility to take actions against systems with SNCs or even systems with violations if they presented a significant health risk.

Other Factors to Consider for Enforcement Actions

There are several factors other than the compliance status, type of system, and drinking water rule that should be considered when evaluating which systems within each level to take enforcement actions against. Some of these factors include:

- What is the population served by the system (e.g., larger population higher priority)?
- Does the system have multiple violations (e.g., SNC for SWTR, TCR, and nitrate)?
- Is the system a repeat violator (e.g., systems has been on the SNC list before)?
- What is the likelihood of bringing the system into compliance (e.g., does the system lack TFM capacity)?

Level 1

These are systems that require immediate attention because of potential acute public health risks or have exceedances of chronic standards. These systems violate established maximum contaminant levels or treatment technique requirements for acute or chronic contaminants. They may also have concurrent monitoring/reporting violations. The Department would generally take the lead on these systems, and formal enforcement would be considered an appropriate tool to bring these systems into compliance. EPA would be willing to assist in those cases in which the Department has attempted to bring the system into compliance but has been unsuccessful. When deciding on which systems should be addressed first, the factors discussed above should be considered.

Compliance Status	Type of System	Risk	Rule/Contaminant
SNC	CWS	Acute	TCR/SWTR/Nitrate
	NTNCWS		TCR/SWTR/Nitrate
	TNC		TCR/SWTR/Nitrate
	CWS	Chronic	LCR/Chems/Rads
	NTNCWS		LCR/Chems/Rads
Non-SNC Violator*	CWS	Acute	TCR/SWTR/Nitrate
	NTNCWS		TCR/SWTR/Nitrate
	TNC		TCR/SWTR/Nitrate
	CWS	Chronic	LCR/Chems/Rads
	NTNCWS		LCR/Chems/Rads

*Focus on problem correction, followup sampling completion, and public notification

Level 2

These are systems that violate monitoring/reporting requirements, but do NOT violate maximum contaminant levels or treatment requirements. They require attention, but are generally not in need of immediate attention. The Department would initiate the first contact, and if the system is not responsive then the system would be a candidate for EPA actions.

Compliance Status	Type of System	Risk	Rule
SNC	CWS	Acute	TCR/SWTR/Nitrate
	NTNCWS		TCR/SWTR/Nitrate
	TNC		TCR/SWTR/Nitrate
	CWS	Chronic	LCR/Chems/Rads
	NTNCWS		LCR/Chems/Rads
Non-SNC Violator	CWS*	Acute	TCR/SWTR/Nitrate
	NTNCWS		TCR/SWTR/Nitrate
	TNC		TCR/SWTR/Nitrate
	CWS*	Chronic	LCR/Chems/Rads
	NTNCWS		LCR/Chems/Rads

*Focus on public notification through the Consumer Confidence Report

ATTACHMENTS

- 1 - ORS 448.273
- 2 - Drinking Water Advisory Committee Membership
- 3 - Laboratory Interagency Agreement
- 4 - List of Certified Laboratories
- 5 - Organization Chart
- 6 - County Grant Assurances

